

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Gad AZRIEL *et al.*

Serial No.: 09/584,581

Group Art No.: 2614

Filed: 05/31/2000

Examiner: J. T. Phan

Attorney Docket No.: 2880 US

Title: FOUR CHANNEL AUDIO RECORDING IN A PACKET BASED NETWORK

## Certificate of Transmission via Facsimile Under 37 CFR § 1.8

I hereby certify that the enclosed correspondence is, on the date shown, being transmitted by facsimile to the Patent and Trademark Office to telephone number 1-571-273-8300.

November 15, 2006  
Date

Maureen Capozzi  
Name: Maureen Capozzi

Commissioner for Patents  
Mail Stop Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

TRANSMITTAL

Enclosed please find the following documents:

- ☒ Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action (2 pgs);
- ☒ Exhibit A (1 pg);
- ☒ Exhibit B (1 pg);
- ☒ Exhibit C (1 pg);
- ☒ Exhibit D (5 pgs);
- ☒ Exhibit E (1 pg);
- ☒ Exhibit F (3 pgs);
- ☒ Exhibit G (1 pg);
- ☒ Exhibit H (3 pgs).

Please charge any deficiencies or overpayments to Deposit Account No. 503650.

Respectfully submitted,

Date: 15 November 2006By: 

Renato M. de Luna  
Registration No. 36,780  
Attorney for Applicant  
3Com Corporation  
350 Campus Drive  
Marlborough, MA 01752  
Telephone: 508-323-1265

NOV 15 2006

Att'y Dkt. No. 2880 US

IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE

Applicant: Gad AZRIEL *et al.*

Group Art Unit: 2614

Serial No.: 09/584,581

Examiner: J.T. Phan

Filed: May 31, 2000

For: FOUR CHANNEL AUDIO RECORDING  
IN A PACKET BASED NETWORK

Marlborough, Massachusetts 01752  
November 15, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON FAILURE TO RECEIVE OFFICE ACTION  
(MPEP 711.03(c) II and 37 CFR § 1.181)

Dear Sir:

1. PETITION:

Applicants hereby petition the Commissioner to withdraw the outstanding Notice of Abandonment, dated October 30, 2006. As set forth in the Statement hereunder, the subject application went "abandoned" for failure to pay an issue fee, despite applicants not having ever received a Notice of Allowance.

2. FEE:

In accordance with MPEP 711.03(c) II and 37 CFR § 1.181, no fee is required for this petition.

3. STATEMENT:

(a) Prior to June 20, 2006, the subject application was being prosecuted by a former outside patent counsel (i.e., Howard Zaretsky) to 3Com Corporation (i.e., the assignee of the subject application). By a letter dated February 22, 2006, said former outside patent counsel was instructed by 3Com Corporation to commence transferring responsibility for the subject application (among many others) to 3Com's in-house patent counsel (i.e., the undersigned). (See, Exhibit A)

(b) On June 14, 2006 -- still in the midst of transferring said responsibility -- former outside patent counsel contacted the undersigned by e-mail, reporting that, in connection with the subject application, "Examiner Phan [called to] ... discuss a claim in order to place the case in condition for allowance." (See, Exhibit B). At this time, revised powers of attorney were still pending.

(c) On June 19, 2006, the undersigned called Examiner Phan to discuss the Examiner's suggestions for bringing the case to allowance. Agreement was reached, and the Examiner instructed the undersigned to fax him a revised Power of Attorney so that he could affect said agreement and issue a notice of allowance. (See, Exhibit C). On the following day, as per Examiner's instructions, the undersigned faxed the examiner the requested power of attorney, which was followed up with a voice mail confirmation. (See, Exhibits C and D). No further communications were received from the Examiner.

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(d) On July 10, 2005, 3Com received the PTO's "Notice of Acceptance of Power of Attorney" (dated 07/07/2006). (See, Exhibit E). The Notice was duly docketed. (See, Exhibit G.)

(e) Recently, on November 3, 2006 – several months after 3Com's last docketed entry – 3Com received a "Notice of Abandonment", dated 10/30/2006. (See, Exhibit F). According to the Notice of Abandonment, the subject application went abandoned because the "issue fee and publication fee, if applicable, has not been received".

(f) The undersigned contends that 3Com Corporation never received a Notice of Allowance.

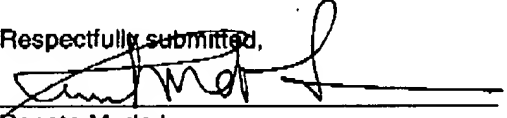
(g) Further to Par. 3(f), the undersigned hereby submits 3Com Corporation's docket record for the subject application. (See, Exhibit G.). The last (and only) entry is said "Notice of Acceptance of Power of Attorney". There are no entries prior to this, because – as noted in Par. 3(a), above – the subject application was at the time being handled by former outside counsel. Also, the current Notice of Abandonment does not appear in the docket, owing to the need to pull it out of queue to more quickly attend to this Petition.

(h) More conclusively, the undersigned also hereby submits the PTO's "Notice of Allowance". (See, Exhibit H) The undersigned found the Notice of Allowance on PAIR only upon investigating the present "Notice of Abandonment". Despite Examiner Phan's instruction and suggestions, the "Notice of Allowance" wasn't mailed to the undersigned, but to Greenburg Traurig, LLP. The undersigned is not familiar with this firm, but surmise that it may be the former outside patent counsel's former employer or a firm otherwise affiliated with him. Whatever the relationship, the recipient of the Notice of Allowance was not an agent of or attorney for 3Com Corporation at the time of receipt. No communication was received by 3Com Corporation from this firm that the Notice of Allowance was sent to them.

#### 4. CONCLUSION:

On the basis of the showing set forth hereinabove, the outstanding Notice of Abandonment should be withdrawn, and a new Notice of Allowance should be mailed to the undersigned attorney of record.

Respectfully submitted,

  
Renato M. de Luna  
Registered Patent Attorney  
Registration No. 36,780  
3COM CORPORATION  
350 Campus Drive  
Marlborough, Massachusetts 01752

RMD/--  
Attachments:  
Transmittal (1 pg.)  
Ex. A-H (17 pgs.)

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#### Certificate of Mailing/Transmission (37 CFR 1.8)

I hereby certify that this correspondence is, on the date shown below, being:

##### Mailing

☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313-1450.

##### Facsimile

☒ transmitted by facsimile to the Patent and Trademark Office.

  
Renato M. de Luna, Reg. No. 36,780  
Date: November 15, 2006